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In the
Supreme Court of the United States

October Term, 1946

No. 747

RAYMOND JACKSON, AN INCOMPETENT PERSON BY PHIL OLDHAM, NEXT FRIEND AND GUARDIAN *AD LITEM, Petitioner,*

vs.

THE CARTER OIL COMPANY, A CORPORATION; RHINA JACKSON, RUBY NORVELL, ALBERT NORVELL, AND CAROLYN NORVELL CLARK, *Respondents.*

REPLY BRIEF

We are filing a Brief Reply.

It is of no importance whether the Petitioner's Estates, in this hearing, is of $300.00 value or $3,000,000.

It is of little importance whether the Petitioner owned or may ever own his allotment, except as hereafter stated.

It is of the utmost importance of the manner and by what means the Petitioner lost his claim of title and in what manner and by what means, Respondents temporarily, became vested with his title.

It is of supreme importance to this Court, the Judiciary in general, the institutions set up to protect and safeguard the public, if fraud intervened obstructing and paralyzing the judicial process,—the agencies of public justice resulting in the loss of Petitioner's title.

Respondents, in effect, enter a plea of confession and avoidance; they nowhere in the record, in their brief, acts and conduct specifically deny the affidavits and fraud disclosed therein, which are attached as exhibits to Respondents' answer (R. 110-168) and the affidavits of Petitioner's mother, brothers, and sisters, exhibits A to E inclusive (R. 219-225) all of which are included in the appendix attached to the Petition; therefore, this lack of denial is in effect a confession, at least a tacit confession.

Respondents, for their plea of avoidance, in effect set up a counter-claim in an attempt to allege that the Petitioner himself is not free of sin; hence, Respondents assume to believe that by a counter plea of the misgivings and wrongs of the Petitioner, as they allege, their own wrongs and frauds are remitted and fully forgiven.

We hold no brief for any wrongs or fraud, if such have been committed by Petitioner. We believe we can safely say, however grievous the Petitioner's faults may be, he has never committed nor attempted to commit any fraud upon any of the courts wherein his litigation has been pending and prosecuted. We may further suggest about all of the complaints we have heard against Petitioner, in relation to this litigation, have come from the Respondents. This might not be unexpected, since Petitioner is seeking to recover his allotment and oil taken therefrom and Respondents are doing all in their power by unfair means to defeat Petitioner in his rights. It would seem in reason that the Respondents, in the circumstances, should be the last persons to complain in behalf of third parties.

In their first paragraph, Respondents charge that Petitioner had held himself out as "Willie Harjo", as an heir to the estate of Exchillo Harjo. This incident is fully explained in the record (R. 55), which disclose that the idea, its purpose, and the whole matter originated in the fertile mind of Petitioner's father, Davis A. Jackson, and his lawyers, Norvell & Norvell, as a part of the fraudulent conspiracy, which conspiracy was to defraud Petitioner out of his allotment, (was later joined by the Carter Oil Company), about the time oil was discovered on Petitioner's 40 acres, to induce him to remain on the west coast and to prevent him from coming to Seminole County, Oklahoma, where his land and oil wells were situate and successfully prevent him from defending his rights.

THE RACKET

Respondents have much to say about a "racket" because Petitioner has seen fit to litigate in an effort to recover his birthright. They say the Trial Court and the Circuit Court of Appeals did what they could to put an end to Petitioner's racket. It is true that the Trial Court did on May 4th, 1944, (R. 211-212) "perpetually enjoin Petitioner from filing further suits or *prosecuting further litigation against the Defendants*". It would appear from counsel's brief, P. 2, that the trial judge of his own motion, without any suggestion from counsel, included the injunctive order in the decree. This is difficult to believe because the Petitioner had never had a full trial in any trial court. The trial in January, 1932, judgment April 18, 1932, went off on a Motion to Dismiss, and his rights had never been considered or adjudicated by any Appellate Court in any proceeding and upon any appeal wherein the Petitioner was a party to the appeal in any wise. *Strictly construed,* the Petitioner might be *held guilty of violating this injunction by prosecuting his appeal and in filing his Petition in this Court for review.*

There is another reason why it is difficult to believe that the trial judge initiated this injunction without some powerful, persuasive, and irresistible argument; because Judge Broaddus is a good lawyer and a fine and reasonable judge and we can not believe he would have perpetually enjoined Petitioner had he been advised that Petitioner had never had a full trial on account of the conspiracy and the fraud practiced upon the Court and had he been advised further that no appellate court at that time had ever considered and adjudicated Petitioner's rights, except in an appeal to which the Petitioner was not a party and no one was authorized to represent him. (See opinion—(Ky.) *Jackson* v. *Jackson*, 67 Fed. (2d) 719)

MORE ABOUT RESPONDENTS' ALLEGED RACKET

If any bigger, more destructive, and more dangerous "Racket" could be conceived, formed, and executed, than is disclosed in the record, in the fraud practiced upon Petitioner and to effectuate same, also practiced upon the court, as disclosed from the record, with a more sinister purpose, we should like to behold it.

This Honorable Court will not fail to consider the status, the environment, and the background of Petitioner as compared with the Respondents in respect to Respondents' alleged rackets. The Petitioner is what the appellation to his name implies: a New Born Freedman. His parents were either in slavery or descendants of slaves. The Petitioner, an untutored and incompetent, irresponsible, Negro boy Freedman; in some respects smart above the average on some subjects, but wholly irresponsible and unreliable in business and in the handling and value of money. There is one thing he does know, beyond the shadow of a doubt, and that is that he is Raymond Jackson, the allottee of the land in controversy. This is established in numerous ways in the Record.

He also knows beyond all question of doubt that the Carter Oil Company, in connection with the other Respondents, defrauded him out of his birthright up to date and that said company has extracted and taken from his land estimated values in oil in excess of three million dollars. He knows, too, that under the advice and direction of his father's attorneys, Norvell and Norvell, both his father and mother disowned and repudiated him under violent threats and coercion on the part of his father. His father, mother, brothers, and sisters appeared in court and knowingly testified falsely that he was unknown to them and that "their Raymond" had been killed on a train at Blue Mountain. He knew all the time his relation in the family group, the same as every other boy or girl knows his or her relation in their respective family. He knows too, now, since his mother, brothers, and sisters have been freed from a terrible frightening fear and restraint and having made affidavits that they had been induced to swear falsely under fear and threats that they, too, knew all the while that Petitioner was in reality Raymond Jackson and the allottee of the land involved; that each of them knew all the time that their testimony was absolutely false. (R. 219-225)

May we inquire of this Honorable Court if there can be any more despicable and corrupt crime as disclosed from the affidavits marked Exhibits A to E inclusive (R. 219-227) and as disclosed from some of the other 51 affidavits in the appendix? And yet, in the face of this amazing record, the Respondents pretend to believe and argue that this Court should not accept jurisdiction; that the facts are not sufficient to challenge the exercise of discretion and action of this High Court under its power and duty of supervision. Respondents seem to think they should be excused and their wrongs blotted out and forgotten under their plea of avoidance, on account of the wrongs and misgivings of the Petitioner.

Such wrongs of the Petitioner, alleged by Respondents, sink into oblivion; they are no more than mole hills compared with the wrongs and frauds charged to Respondents, as disclosed in the Record.

OUR REASONS FOR REVIEW ARE SOUND

We believe Counsel are in error. We understand and appreciate full well that a Review on Writ of Certiorari is not a matter of right but is of sound judicial discretion and we claim that there are at least two grounds and reasons raised and asserted in the record, which are sound and warrant the issuance of the writ: (a) "Or has decided an important question of general law in a way probably untenable or in conflict with the weight of authority"; (b) "Or has so far departed from the accepted and usual course of judicial proceedings or so far sanctioned such a departure by a lower court as to call for an exercise of the Supreme Court's power of supervision". Under the undisputed facts, these two grounds need no argument; they are little less than self-evident.

Respondents seem to be impressed that it is of little importance and that it should be considered lightly by this Court that the worst kind of fraud is practiced upon a trial court by virtue of which a litigant is swindled out of his property through the processes of the law. They seem to think that bribing witnesses to leave the jurisdiction of the court or to remain out of the jurisdiction of the Court and from the trial is a matter in which the litigants, the courts, or the public have little concern. They also assume to believe that the intrinsic fraud disclosed from the affidavits attached as exhibits to Respondent's Answer and the conspiracy entered into which resulted in a flagrant miscarriage of justice, are matters of little concern to this court under its supervisory jurisdiction.

This Honorable Court has direct supervisory jurisdiction and control over all inferior Federal Courts. We cannot imagine the Court consenting to matters as serious as practicing fraud through and by virtue of a fraudulent conspiracy so lightly as to permit such to pass without notice and without action.

May we remind this Court that none of the affidavits of Petitioner's mother, brothers, and sisters have ever been before or considered by any Court except the District Court at the time the motion or petition in the nature of a bill of review to vacate the judgment, was considered and denied. These affidavits were attached as exhibits to the motion or Petition and they constituted all the testimony before the Court when the motion was denied. More than that, the 51 affidavits and the facts they disclose have never been before or considered by any court on the merits, in any case wherein the petitioner was a rightful party. They were attached to the Complaint in the action dismissed by Judge Kennamer (R. 171-185). The judge, in his opinion of dismissal, made this statement:

> "It is most extraordinary when a mother denies her child. Plaintiff brings no statement from Rhina Jackson that she ever admitted he was her son. She has been available at all times and steadfastly has maintained there is no kinship between her and Plaintiff."

This was before her husband and his lawyers died; before they were freed from fear.

We reiterate that the contents of these affidavits were successfully concealed from the Plaintiff and from the Court pursuant to said conspiracy through fear and threats until after Davis A. Jackson died in 1939 and until after his lawyers, the Norvell brothers, died in 1942 and 1943. They were then withheld by an attorney fraudulently until after the term of Court. (R. 216-217) Intimidation and threats of

prosecution for perjury were made against these affiants, as we are advised, until after the death of Jackson's attorneys.

The writer of the Petition and of this Brief had no part in the trial of this case or in preparing the record for appeal. The record had been filed and printed in the Appellate Court before present counsel was employed to brief the case and he had ten days only to prepare the brief for the Court of Appeals. The record is not as complete and as accurate as we should like.

If, for any reason, this Honorable Court should feel that it is unable to grant full relief under the record then, if not inappropriate, we trust the Court may accept jurisdiction to the extent of modifying the Order and Judgment of the trial court in eliminating the perpetual injunction against Petitioner. It would appear to be more in harmony with equity and justice had the trial court enjoined Respondents from further prosecuting its defense, seeking affirmative relief from a Court of Equity, based upon a fraudulent conspiracy. The Court should not, we believe, tie the hands of this incompetent colored Freedman, after his allotment has been taken from him in the manner disclosed in the record and then perpetually enjoin him from appealing to the courts to test the validity of the judicial process of the law, by means of which his property was taken, especially in view of the record and until he has had a full and fair trial. No more aggravated and despicable conspiracy and fraud were ever formed and executed upon a litigant and upon the Court having jurisdiction, to our knowledge, in this State.

In the case of *Hazel-Atlas Glass Co., Petitioner* v. *Hartford-Empire Co.*, 322 U. S. 238-271, this Court said:

> "* * * Surely it cannot be that preservation of the integrity of the judicial process must always wait upon

the diligence of litigants. The public welfare demands that the *agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud.* * * *"*

We have reason to believe that nothing except utter lack of power will cause this Honorable Court to withhold its consent to grant the writ prayed for.

Most respectfully submitted,

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